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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/154,274	09/16/1998	ZOLTMAN G. TURI	BTG-5001	6727

7590 08/12/2004

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WASHINGTON, DC 20007-5109

EXAMINER

THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/154,274

**Applicant(s)**

TURI, ZOLTMAN G.

**Examiner**

Michael Thaler

**Art Unit**

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Continuation of Disposition of Claims: Claims pending in the application are 1-26,28-32,38-47,49-51,53-57,61-63,66-72,74-78,84-91,94-96,98-102,106-108,111-172,176-180,190-194 and 202-205.

Continuation of Disposition of Claims: Claims rejected are 1-26,28-32,38-47,49-51,53-57,61-63,66-72,74-78,84-91,94-96,98-102,106-108,111-172,176-180,190-194 and 202-205.

The final rejection mailed March 19, 2004 is hereby withdrawn.

The indicated allowability of claims 1-26, 28-32, 38-47, 49-51, 53-57, 61-63, 66-72, 74-78, 84-91, 94-96, 98-102, 106-108, 111-172, 176-180, 190-194 and 202-205 is withdrawn in view of the newly discovered reference(s) to Winston et al. (5,366,473). Rejections based on the newly cited reference(s) follow.

Claims 141-143, 145-149, 151, 152 and 171 are rejected under 35 U.S.C. 102(e) as being anticipated by Winston et al. (5,366,473). Winston et al. disclose the steps of providing an expandable member 20, providing a blood vessel 26 adjacent to the expandable member (col. 3, lines 50-52), inserting the expandable member and blood vessel into the body (col. 4, lines 1-2) and expanding the expandable member subsequent to inserting the expandable member and blood vessel into the body (col. 4, lines 9-16). As to claim 142, expandable member 20 is deformable since it is resiliently deformed as it is radially compressed prior to insertion into the body.

Claims 1, (5-7)/1, 10/1, 12-15, 16/(1, 12, 13, 15), 17/(1, 12, 13, 15), 18, 19, 22-26, 29, 38-44, 49-51, 54, 61, 62, 66-72, 75, 84-90, 94-96, 106, 107, 111-121, 123, 125-133, 135, 137-140, 144, 150, 153-156, 158, 160-170, 172, 176-180, 190-194 and 202-

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205 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragg (5,665,115) in view of Winston et al. (5,366,473). Cragg discloses a cylindrical-shaped member 10, a graft 13 within the passage of the cylindrical-shaped member 10 and securing means (the hoop members described in col. 3, lines 22-23). Cragg discloses the graft 13 as being a synthetic material rather than a blood vessel. However, Winston et al. teach that a graft 26 attached to a stent 20 may be a blood vessel instead of a synthetic material (col. 3, lines 49-52). This arrangement has the self-evident advantage of improving the biocompatibility of the assembly. It would have been obvious to use a blood vessel as the Cragg graft 13 so that it too would have this advantage. As to claims 5-7, for example, Cragg fails to disclose the specific stent structures. However, the claimed stent structures are old and well known as admitted by applicant (figures 2, 3, 8 and 9 of applicant's disclosure) and have the advantage of providing a large expansion force. It would have been obvious to use the admittedly old stent structures for the Cragg stent 10 so that it too would have this advantage. As to claim 13, for example, Cragg discloses expansion means in col. 4, lines 24-26.

Claims 2-4, (5-7)/4, 8, 9, 10/4, 11, 16/(3, 4, 11), 17/3, 20, 21, 28, 30-32, 45-47, 53, 55-57, 63, 74, 76-78, 91, 98-102,

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108, 122, 124, 134, 136, 157 and 159 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragg (5,665,115) in view of Winston et al. (5,366,473) as applied to claims 1, (5-7)/1, 10/1, 12-15, 16/(1, 12, 13, 15), 17/(1, 12, 13, 15), 18, 19, 22-26, 29, 38-44, 49-51, 54, 61, 62, 66-72, 75, 84-90, 94-96, 106, 107, 111-121, 123, 125-133, 135, 137-140, 144, 150, 153-156, 158, 160-170, 172, 176-180, 190-194 and 202-205 above, and further in view of Buirge et al. (5,693,085). As to claims 2 and 3, for example, Cragg fails to disclose the graft extending beyond and folded over at least one of the ends of the cylindrical-shaped member. However, Buirge et al. teach that a graft should be so attached to the stent apparently in order to form a good connection between the two (col. 10, lines 58-65). It would have been obvious to so attach the Cragg graft to the stent so that it too would have this advantage. As to claims 8 and 9, for example, Cragg fails to disclose the securing means (col. 3, lines 22-23) as glue or welds. However, Buirge et al. teach that a graft should be so attached to the stent apparently in order to form a good connection between the two (col. 11, lines 2-4). It would have been obvious to so attach the Cragg graft to the stent so that it too would have this advantage.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (703) 308-2981. The examiner can normally be reached Monday to Friday.

The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

mht  
7/27/04



MICHAEL THALER  
PRIMARY EXAMINER  
ART UNIT 3731